



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

JJD/SDD/MPC

610 Federal Plaza
Central Islip, New York 11722

May 6, 2015

By Hand and ECF

The Honorable Denis R. Hurley
United States District Judge
United States District Court
Eastern District of New York
930 Federal Plaza
Central Islip, New York 11722

Re: United States v. Justin Kaliebe
Criminal Docket No. 13-072 (DRH)

Dear Judge Hurley:

The defendant Justin Kaliebe pled guilty, on February 8, 2013, to one count of attempting to provide material support to terrorists, in violation of 18 U.S.C. § 2339A(a), and one count of attempting to provide material support to a designated foreign terrorist organization, al-Qaeda in the Arabian Peninsula, in violation of 18 U.S.C. § 2339B(a)(1). A Fatico hearing is scheduled for May 11-12, 2015 to address the defendant's assertion that he acted under diminished capacity at the time of the crimes of conviction. In order to properly address the claims being made by the defendant, as well as the anticipated testimony of the defendant's two expert witnesses, Dr. Bardey and Dr. Hitner, the government has retained its own expert witness to examine the defendant, prepare a report and possibly testify at the Fatico hearing.¹

The government's expert will need approximately six weeks to review the defendant's experts' reports and related materials, examine the defendant and prepare a report, which will be provided to the Court and the defendant upon completion. Accordingly, the government respectfully requests that the defendant's Fatico hearing and sentencing be adjourned at least six weeks to a date and time convenient to the Court. The government has discussed the requested adjournment with Anthony La Pinta, Esq., the defendant's counsel, who consents to the adjournment. Mr. La Pinta is in the process of

¹ The defendant was previously examined by a Bureau of Prisons psychologist, who issued a report on September 11, 2013, which determined that the defendant was competent to proceed with this case. However, the focus of that examination was different and did not address whether the defendant suffered from diminished capacity at the time of the crimes of conviction.

contacting Dr. Bardey and Dr. Hitner to determine their availability. Once he has done so, the government and Mr. La Pinta will contact Your Honor's Courtroom Deputy to schedule a new date for the hearing, subject to Your Honor's approval.

Respectfully submitted,

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Assistant U.S. Attorneys

cc: Anthony La Pinta, Esq. (By ECF and e-mail)
Clerk of the Court (DRH) (By ECF)